

CLARKE COUNTY BOARD OF SUPERVISORS

February 17, 2004Regular Meeting9:00 a.m.

Board of Supervisors' Meeting Room

At a meeting of the Board of Supervisors of Clarke County, Virginia, held in the Board of Supervisors' Meeting Room, Second Floor of the Circuit Courthouse, 102 N. Church Street, Berryville, Virginia on Tuesday, February 17, 2004.

Present

Chairman John Staelin, Vice Chairman Hobert, Supervisor Byrd, Supervisor Dunning, and Supervisor Weiss

Also Present

Jeff Lineberry, Bob Childress, Ricky Pope, Gem Bingol, Ed Breslauer, David Ash, Tom Judge, Charles Johnston, Patsy McKelvy, Steve Hott, Jerry Herrmann, Val Van Meter and other citizens.

Call To Order

Chairman Staelin called the meeting to order at 9:05 a.m. in the Board of Supervisors' Meeting Room of the Circuit Courthouse.

Adoption of Agenda

- Add to Miscellaneous:
- Legislative Update – John R. Staelin
 - Executive Session: Personnel – A.R. Dunning, Jr.
 - Discussion of Establishment of Annual Goals – A.R. Dunning, Jr.

Supervisor Dunning moved to adopt the agenda as modified. The motion carried by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Approval of Meeting Minutes

- Public Meeting January 14, 2003
- Regular Meeting January 16, 2003
- Continued Regular Meeting January 16, 2004

Supervisor Byrd moved to approve the minutes as written. The motion carried by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Consent Agenda

Acknowledgement of Abstract of Votes – 2004 Democratic Presidential Primary Election

The Clarke County Electoral Board submits the Abstract of Votes for the 2004 Democratic Party Primary Election for acknowledgment by the Board of Supervisors.

Vice Chairman Hobert moved to acknowledge receipt of the Abstract of Votes - 2004 Democratic Party Primary Election. The motion was approved by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Citizen Comment Period

Nancy Thompson, Bluemont, appeared before the Board to address her concerns regarding the 2004 Clarke County Quilt and Needlework Show. Ms. Thompson stated that the request by the Clarke County Parks and Recreation Department for vendors to pay 15% of their profits would cause a hardship on this event. She further stated that this requirement was not in the contract their contract for the 2004 show. She requested that the Board waive the vendor fee for this year and to address the matter in future. She informed the Board that the event brings approximately 1,000 tourists into the community each year.

Vice Chairman Hobert stated that he was the Board of Supervisors’ liaison to the Parks and Recreation Advisory Board and they had not yet discussed this matter. He explained that the request for 15% of profits from vendors was a matter that Lisa Cooke, Parks and Recreation Director, had noted as a discrepancy in the policy. He stated that the policy should be reviewed to ensure consistency and the matter addressed for future years. Mr. Hobert recommended that the fee be waived this year for the Quilt and Needlework Show for 2004.

Supervisor Dunning stated that he wanted to ensure that the practice was fair. He requested that Parks and Recreation staff check to see what the Ruritan Club charges vendors.

Supervisor Dunning moved to waive the 15% vendor fee for 2004 and to set the matter for review prior to the 2005 event. The motion was approved by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Virginia Department Of Transportation

Jeff Lineberry and Bob Childress appeared before the Board of Supervisors to provide the monthly update. Ricky Pope also accompanied Mr. Lineberry and Mr. Childress.

Speed Study Update

The VDOT speed study on Route 653, Kimble Road, has resulted in a request for speed reduction from 55 mph to 45 mph from the Route 654 intersection [Stringtown Road] to State Route 7 intersection [Harry Byrd Highway] for a total length of 1.42 miles. The

request for speed zone reduction was recommended to the State Traffic Engineer based on roadside development.

Route 612, Shepards Mill Road, was reviewed from the intersection of Route 608 [Wickliffe Road] to the intersection of U.S. Route 340 [Lord Fairfax Highway]. No reduction in the unposted 55/45 mph statutory limit is recommended at this time. There is no accident history on the route. However, it was observed during the study that 445 out of 839 in sample one and 197 out of 883 in sample two were exceeding the unposted 55/45 mph statutory limit with the highest speed recorded at 84 mph. Supervisor Weiss requested that Route 612 be kept active and be revisited following completion of the remaining scheduled studies.

Scenic Byway Status for Blue Ridge Mountain Road [Rt. 601]

Jeff Lineberry reviewed a letter from the President of the Blue Ridge Mountain Road Citizen Association, Sigrid G. Pollari, requesting consideration of placement in the Scenic Byway Program of Route 601. Mr. Lineberry indicated that Board would need to pass a resolution for them to start the process of administrative consideration.

Jeff Lineberry reviewed the requirements for consideration of Scenic Byway Status. Chuck Johnston distributed road maps of Virginia highways currently designated as Scenic Byways. Following discussion, Chairman Staelin stated that he would prefer that all roads be considered at one time and asked that the individual members of the Board review roads in their area that might meet the criteria. He requested that the matter be discussed further during a work session.

Chairman Staelin requested additional information on inclusion of dirt roads. Chuck Johnston stated that previously there had been concern that designation would increase traffic on these roads; however, over the course of time, this has not proven true.

Boyce Revenue Sharing Project

The Town of Boyce has made a formal request to participate in VDOT's Revenue Sharing Program. The money will be matched on a dollar-for-dollar basis and will be used to improve Main Street. The improvements include sidewalks, the storm sewer system, and landscaping. No funds are being requested from the County for this project and the Town of Boyce has their estimated share, which is \$75,000. The total cost of the project is \$35,000 to \$40,000 for design and \$100,000 to \$110,000 for engineering. This project is not listed on the Six-Year Plan.

17 February 2004

*County Primary and Secondary Road Fund
(Revenue Sharing Program)
Code of Virginia, Section 33.1-75.1
Fiscal Year 2004-05*

*Mr. Michael A Estes, P.E.
Local Assistance Division
Virginia Department of Transportation
1401 East Board Street
Richmond, VA 23219*

Dear Mr. Estes:

The County of Clarke, Virginia, indicates by this letter its official intent to participate in the "Revenue Sharing Program" for Fiscal Year 2004-2005. The County will provide \$75,000 for this program, to be matched on a dollar-for-dollar basis from funds of the State of Virginia.

The County worked with its Resident Engineer, and developed the attached project recommended to be undertaken with the funds. The County also understands that the program will be reduced on a pro rata basis if requests exceed available funds.

*Sincerely,
John Staelin
Chairman, Board of Supervisors
Attachment*

c: Resident Engineer

Following discussion, Supervisor Dunning moved that a letter of official intent to participate in the Revenue Sharing Program for Fiscal-Year 2004-2005 be written. Further, that said letter be forwarded to the Resident Engineer for review and forwarding to Mr. Michael A. Estes, P.E., Vocal Assistance Division, VDOT. The motion was approved by the following vote:

Chairman Staelin	-	Abstain
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Mr. Staelin abstained from the vote noting that a property owned by him would be impacted by the proposed improvement.

Jeff Lineberry apprised the Board that the Revenue Sharing money would be available after July 1, 2004.

Thru Truck Restriction – Town of Berryville

Jeff Lineberry informed the Board that VDOT has erected signs in the Town of Berryville soliciting comment on restricting thru truck traffic along Main Street from First Street west to Buckmarsh Street. The signs were erected February 5 and will be removed March 7. To date, they have received several written comments that are supportive of closure to thru traffic.

Vice Chairman Hobert opined that the location of the signs had caused some confusion as to the actual area being studied. Jeff Lineberry indicated that there had been a notice in the local paper regarding the proposed are of study.

Boyce Intersection Route 340

Supervisor Dunning requested an update on signalization of the intersection in the Town of Boyce. Jeff Lineberry stated that they would continue to review this intersection. Currently, it does appear that it meets the criteria.

Thru Truck Restriction - Frederick County

Supervisor Weiss requested an update on the status of thru truck restriction on Old Charlestown Road through Brucetown. Supervisor Byrd stated that this was initiated by Frederick County and she was waiting on communication from Linda Tyler. She explained that the Frederick County Planning Commission was behind the restriction. Chairman Staelin noted there have been complaints from Clarke County residents regarding truck traffic on that section of road. Jeff Lineberry explained that restricting thru trucks does not prohibit truck traffic. As long as the truck's destination ends on that road, they may use the road.

Route 642 and Route 644 – Sight Distance

Jeff Lineberry informed the Board that they had conducted additional investigation on intersection of Route 642, Chrismore Road and Route 644, Gun Barrel Road. The trees have been trimmed back 15 feet from the roadway. Bob Childress presented photographs taken at the intersection. He stated that the sight distance is 550 feet. Supervisor Dunning opined that there should not be any difficulty if the vehicle is operated properly.

Potholes - Clarke County Roadways

Mr. Lineberry stated that he hoped to have some money left from the snow removal funds that would be used to address the repair of potholes.

Regional Airport Authority

Serena R. Manuel, Executive Director, and Chuck Wilmont, Chairman – Regional Airport Authority Board, appeared before the Board to request approval of the following resolution that would allow them to seek funds to build one T-hanger and to refinance two other loans that are at higher interest rates. She stated that the refinancing would save \$80,000 over the current terms on these loans.

RESOLUTION OF THE CLARKE COUNTY BOARD OF SUPERVISORS
APPROVING THE ISSUANCE OF DEBT BY THE
WINCHESTER REGIONAL AIRPORT AUTHORITY
AND RELATED MATTERS

WHEREAS, the Board of Directors (the “Board”) of the Winchester Regional Airport Authority (the “Authority”) has authorized the submission of an application to the Virginia Resources Authority (“VRA”), as the Administrator of the Virginia Airports Revolving Fund to participate in the 2004 Authority in an amount not to exceed \$1,850,000 (the “Bonds”) for the financing of the construction of a 16-unit hangar building, the expansion of an existing hangar and various other capital improvements to the Winchester Regional Airport, and to refinance the outstanding principal balance of tax exempt bonds issued by the Authority in 1990 and 1996 together with related expenses and costs of issuance (the “Project”).

WHEREAS, in accordance with section 7.17.b of the Winchester Regional Airport Authority Act 1987 Session, Virginia Acts of Assembly, Chapter 687 in accordance with Chapter 3, Title 5.1, et. Seq., Code of Virginia of 1950, as amended (The “Act”) the consent of each of the participating political subdivisions is required for any issuance of debt by the Authority if the total debt shall exceed \$500,000, and the participating political subdivisions consist of the City of Winchester, and the Counties of Shenandoah, Frederick, Clarke and Warren (collectively, the “Member Jurisdictions”); such consent is being requested prior to the issuance of the Bonds by the Authority.

NOW, THEREFORE, BE IT RESOLVED:

1. The Board of Supervisors of Clarke County hereby consents to the issuance of the Bonds by the Authority for the purpose of financing the Project.
2. Under no circumstances shall the payment of debt service on the Bonds constitute a general obligation indebtedness or a pledge of the full faith and credit or taxing power of any of the Member Jurisdictions.
3. This resolution shall take effect immediately.

Adopted by a majority vote of the Clarke County Board of Supervisors on January 20, 2004

David L. Ash

Clerk, Board of Supervisors

County of Clarke, Virginia

Mrs. Manuel stated that the Regional Airport Authority would be coming back to the Board of Supervisors to apprise them of the proposed road relocation project, which will be funded through the FAA.

Supervisor Dunning moved to approve the resolution approving the issuance of debt by the Winchester Regional Airport Authority and related matters. The motion was approved by the following vote:

Chairman Staelin

Vice Chairman Hobert

- Aye

- Aye

Supervisor Byrd- Aye

Supervisor Dunning- Aye

Supervisor Weiss- Aye

Special Entertainment Permit- 2004 Wells Fargo Balloon Festival

David Ash reviewed the special entertainment permit application for the 2004 Wells Fargo Balloon Festival, which was complete with the exception of questions still remaining regarding the use of antique fire engines for fire protection on site. Jodie Popio, Director of Programs, stated that she had received an email response regarding the use of the antique fire engines; and in response to that missive, she would need to seek fire protection services.

Chairman Staelin observed that GPS units were to be used in all balloons. He informed Ms. Popio that his property bordered on that of Mr. And Mrs. George Greenhalgh, III. Mr. Staelin stated that he had spoken with the Goshen's, his neighbors who also have property bordering the Greenhalgh's. He and the Goshen's have agreed to have marking balloons placed on their property to help delineate the Greenhalgh property, which is a "no fly zone".

Vice Chairman Hobert and Supervisor Weiss noted the progressive improvements to the festival over the years. Supervisor Dunning reminded the organizers that it was a privilege to hold this event. Supervisor Byrd urged Long Branch to keep the lines of communication open with the land owners and urged them to respect property rights. Chairman Staelin concurred with Mrs. Byrd stating that everyone must be very clear that it is a matter of property rights.

Vice Chairman Hobert moved to approve the special entertainment permit application for the 2004 Wells Fargo Balloon Festival subject to the provision of documentation of adequate on-site fire suppression equipment approved by Bryan Conrad, Fire Chief – Boyce Fire Company. The motion was approved by the following vote:

Chairman Staelin- Aye

Vice Chairman Hobert- Aye

Supervisor Byrd- Aye

Supervisor Dunning- Aye

Supervisor Weiss- Aye

Public Hearing - Special Use Permit SUP-03-06

Della Bogaty (Veramar Winery) requests the approval of a Special Use and Site Plan for an eight-bedroom country inn and winery located at 901 Quarry Road, Tax Map Parcel 25-((A))-1B, Battletown Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). SUP-03-06

Chuck Johnston provided an overview of the special use permit request. Mr. Johnston noted that the property has no DUR's. He informed the Board that the Planning Commission had unanimously approved the request. Jesse Russell, Zoning Administrator, stated that normally a Special Use remains with the property in perpetuity. To alleviate concerns, the Bogaty's have verbally agreed to the condition that the right to the Special Use would not be utilized by anyone outside the applicant's family unless approved by the Board of Supervisors.

There was also discussion regarding the County ordinances governing County Inns. Members of the Board discussed their concern regarding the lack of dwelling unit rights [DUR]. Chairman Staelin stated that someone would be living in the Inn full time; and thus, they may be creating a "back door" development right. The members of the Board concurred that they believed the venture would be good for the County; they also agreed that they were entering into an area that requires additional research.

At 10:46 am, Chairman Staelin opened the public comment portion of the public hearing.

Della Bogaty, Berryville, owner Veramar Winery: apprised the Board that she had been encouraged to bring this matter before them since it had met all the regulations and had

received the approval of the Planning Commission. She stated that the County Inn would be part of the business and would not be sold separately. She opined that the agri-tourism that would be generated was in keeping with the goals of the County. Mrs. Bogaty told the Board that her son would reside at the Inn as the resident innkeeper. She said that the property has always been two parcels. She informed the Board of the insurance liability issue for the winery that, should the property's be joined through a boundary line adjustment, would cause such hardship that they would forego the County Inn.

Justin Bogaty, Berryville: Mr. Bogaty also stated that the separation of the property presents an insurance liability issue.

Robina Bouffault, Boyce: Mrs. Bouffault provided additional information regarding the lack of DUR's on the Bogaty property in question. She stated that when she served on the Board of Equalization the Bogaty's had requested an adjustment in the assessed value of the property in question due to the fact that no DUR's were left.

There being no others present desiring to address the Board the public comment portion of the public hearing was closed at 10:55 a.m.

Supervisor Weiss told the Board that some of Bogaty's neighbors had expressed concern regarding the increased traffic on the road the proposed business expansion would bring. Chuck Johnston stated the Planning Commission had reviewed this but found that the road was not sufficiently inadequate to deny the request on that point.

Chuck Johnston reminded the Board that there were two items being requested a Country Inn and a Winery. Vice Chairman Hobert stated that the County does encourage business but the Country Inn presents some technical problems that must be resolved prior to approval. He queried Mrs. Bogaty as to any issues that delaying action on this matter might cause. Mrs. Bogaty stated that she had spent \$10,000 to get to this point and she still had no guarantee that the Special Use request would be granted. Mr. Hobert stated that she might wish to speak with counsel on the matter during the proposed 30-day extension. Supervisor Byrd encouraged the members of the Board to visit the property during the next 30 days.

Supervisor Dunning moved to delay action on SUP-03-06 until the next regularly scheduled meeting of the Board on March 16, 2004. The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Public Hearing - Text Amendment – TA-03-06

The Berryville Area Development Authority recommends the amendment of the Clarke County Zoning Ordinance:

- a. District Regulations, Sections: 3-A-4 Open Space Residential (OSR), 3-A-5 Detached Residential - 1 (DR-1), 3-A-6 Detached Residential - 2 (DR-2), 3-A-7 Detached Residential - 4 (DR-4), and*
- b. Site Plan Improvements and Minimum Standards, Section 6-H,*
so as to establish building setbacks from environmental features in residential zoning districts in the Berryville annexation area, and establish performance standards for land development activities that encompass karst features. (TA-03-06)

Chuck Johnston presented the requested text amendment to the Board. He drew the Board's attention to the Sinkhole and Karst Features section that defines the requirements for a Geo-technical Engineer, as well as requirements of geo-technical testing. Mr. Johnston stated that the Berryville Area Development Authority is discussing further text amendments but described these as very modest. These proposed amendments are not yet set for public hearing.

At 1:50 p.m. Chairman Staelin opened the public comment portion of the public hearing. No persons were present desiring to address the Board on this matter and the public comment portion of the public hearing was closed.

Vice Chairman Hobert stated that enforcement must be addressed. Mr. Johnston advised that the studies are done before the public hearing and the site plan developed.

Vice Chairman Hobert moved to approve TA-03-06 as written. The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

PROPOSED COUNTY ZONING ORDINANCE TEXT AMENDMENT

Sections to be added shown in ***bold Italics*** Section to be deleted shown ~~struck through~~

DISTRICT REGULATIONS

3-A SCHEDULE OF DISTRICT REGULATIONS

3-A-4 OPEN SPACE RESIDENTIAL - OSR

3-A-4-b Maximum Density

3-A-4-b-(1) One dwelling unit per ten net developable acres, or 0.1 units per net acre.

3-A-4-c Lot Size, Yard and Bulk Requirements

3-A-4-c-(6) Environmental Setbacks

All Structures shall be set back 25 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

3-A-4-d Additional Regulations

4. Sinkholes or karst features on lots platted before (adoption date of ordinance) shall be mitigated as described in the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228), or other applicable mitigation standard as recommended by a PE or PG, as approved by the County's Engineer. Sinkholes or karst features on lots platted after (Date of Adoption) shall be mitigated in accordance with the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228) or other means as approved by the County's engineer and County staff.

3-A-5 DETACHED RESIDENTIAL - 1 (DR-1)

3-A-5-b Maximum Density

3-A-5-b-(1) One dwelling unit per net developable acre.

3-A-5-g Additional Regulations

5. Sinkholes or karst features on lots platted before (adoption date of ordinance) shall be mitigated as described in the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228), or other applicable mitigation standard as recommended by a PE or PG, as approved by the County's Engineer. Sinkholes or karst features on lots platted after (Date of Adoption) shall be mitigated in accordance with the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228) or other means as approved by the County's engineer and County staff.

3-A-5-g-(5) Environmental Setbacks

All Structures shall be set back 25 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

3-A-6 DETACHED RESIDENTIAL - 2 (DR-2)

3-A-6-b Maximum Density

3-A-6-b-(1) Two dwelling units per net developable acre.

3-A-6-g Additional Regulations

5. Sinkholes or karst features on lots platted before (adoption date of ordinance) shall be mitigated as described in the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228), or other

applicable mitigation standard as recommended by a PE or PG, as approved by the County's Engineer. Sinkholes or karst features on lots platted after (Date of Adoption) shall be mitigated in accordance with the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228) or other means as approved by the County's engineer and County staff.

3-A-6-g(5) Environmental Setbacks

All Structures shall be set back 25 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

3-A-7 DETACHED RESIDENTIAL - 4 (DR-4)

3-A-7-c Maximum Density

3-A-7-c-(1) Four (4.0) dwelling units per net developable acre

3-A-7-h Additional Regulations

5. *Sinkholes or karst features on lots platted before (adoption date of ordinance) shall be mitigated as described in the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228), or other applicable mitigation standard as recommended by a PE or PG, as approved by the County's Engineer. Sinkholes or karst features on lots platted after (Date of Adoption) shall be mitigated in accordance with the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228) or other means as approved by the County's Engineer and County staff.*

3-A-7-h(5) Environmental Setbacks

All Structures shall be set back 25 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

6 SITE DEVELOPMENT PLANS

6-H IMPROVEMENTS AND MINIMUM STANDARDS

6-H-14 Sinkhole and Karst Features

6-H-14-a Purpose and Intent

The section is to establish review procedures, use limitations, design standards, and performance standards applicable to land development activities that encompass or affect sinkholes or other karst features. The intent of this section is to protect the public health, safety and welfare by requiring the development and use of karst areas to proceed in a manner that promotes safe and appropriate construction and storm water management.

6-H-14-b Definitions

1. *Geotechnical Engineer (GE): a Virginia Registered Professional Engineer engaged in the practice of geotechnical engineering or a Virginia-Registered Professional Geologist who is engaged in the practice of engineering geology.*
2. *Karst Feature: Karst topography is a landscape created by groundwater dissolving sedimentary rock such as limestone. Karst features include sinkholes, fissures enlarged by dissolution, and caves.*

6-H-14-c Site Review

1. Investigation by Geotechnical Engineer

Whenever an application is filed for development, the applicant will hire a Geotechnical Engineer (GE) to undertake an inspection of the subject area. The GE shall review available geologic and engineering data and air-photographs relevant to the site and shall make on-site observations, photographs, and measurements as appropriate. The GE shall provide a written summary of the initial findings along with a recommendation to perform Fracture Trace Analysis, Electrical Resistivity, Cone Sounding, Core Samples, Microgravity, and/or other geophysical or intrusive studies as appropriate to determine if the action requested may have a negative impact. The examination for karst features by the engineer shall take place prior to any public hearing process applicable to the parcel in question. The engineer will report to the zoning administrator any findings as to whether there may be significant karst features that apply to the site.

a) No Evidence of Karst Features

If the engineer finds that the site has no evidence of karst features, they shall so indicate in a written report provided to the reviewing body.

b) Evidence of Karst Features

In cases where the engineer finds evidence that karst features do exist, and which would be impacted by development, electrical resistivity testing, core drilling or microgravity tests, shall be required within a 100 foot radius for all locations on the property where karst features were identified and along any linear trend of at least three or more features. For sinkholes the 100 foot radius shall be measured from the discernable edge. At the conclusion of the tests the applicant shall submit a karst review plan to the Zoning Administrator and follow specific development procedures.

c) The presence of karst features on the site which are not impacted

At the discretion of the Zoning Administrator, the karst plan may be simplified if the environmental constraint found to be present on the site is not impacted by the proposed site development.

6-H-14-d Karst Plan

A karst plan shall be developed for the property identified as having evidence of karst features (i.e., sites upon which sinkholes are fully or partially located and/or which drain to sinkholes). The burden of proof for establishing that there will be no significant impacts shall rest with the applicant. A karst plan shall include the following:

1. *An engineering audit that identifies and maps karst features and the limitations that such features impose on site development. The audit shall include:*
 - a) *The physical location and limits of the area of the sinkhole depression as determined by field survey, the "Soil Survey of Clarke County" (1982), or the "Map of Selected Hydrogeologic Components of Clarke County, Virginia" (1990), or other reliable sources as may be approved by the Administrator;*
 - a) *locations of other karst features (fissures enlarged by dissolution and caves);*
 - b) *topographic contours at maximum intervals of two feet, and spot elevations sufficient to determine low points and discernable edges; and*
 - c) *setback distances of 25 feet and 100 feet from the discernable edge of each feature.*
2. *For structures proposed between 25 and 100 feet of the discernable edge of sinkholes or other karst features, engineering that ensures structural stability.*

6-H-14-e Requirements and Restrictions

1. *As identified in Section 6-H-14-d, no construction or land disturbance shall occur within a minimum buffer distance of 25 feet from the discernable edge of a sinkhole or other karst feature. Vegetation in the buffer area shall not be altered from predevelopment conditions. While vegetation should not be removed so as to disturb the soil, invasive species identified by the Virginia Department of Conservation and Recreation or dead plant material may be removed with the approval of the Zoning Administrator. Fertilizers, herbicides, and pesticides shall not be applied within the buffer area.*
2. *No construction shall take place between 25 and 100 feet of the discernable edge of a sinkhole or other karst feature unless a geological and geophysical survey (as described in Section 6-H-14-d) indicates that such construction or earth disturbance is appropriate.*
3. *Sinkholes or karst features identified during construction shall be mitigated as described in the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228), or other applicable standard as recommended by a GE.*
4. *Flow of surface water to a sinkhole should not be substantially altered from predevelopment conditions unless the mitigation option (Section 6-H-14-e-2) is elected. Stormwater discharge into a karst feature shall not be increased over its predevelopment rate.*
5. *Stormwater runoff from paved areas or structures shall not directly enter a sinkhole. Stormwater facilities shall be designed to route runoff through vegetative filters or other filtration measures before it enters a sinkhole.*
6. *Stormwater basins in karst areas shall be lined with either impermeable soil or a synthetic membrane to prevent sudden loss of the contents of the basin into the groundwater due to induced collapse. Where native materials are deemed adequate for the purpose, the GE shall verify conditions, establish the required parameters, and monitor placement.*
7. *Construction plans shall contain a narrative describing stormwater drainage design, retention, erosion control, and where appropriate, stormwater quality mitigation measures, as these provisions relate to karst features.*
8. *Underground utilities located within 100 feet of karst features shall be laid out so that*

- they do not intersect those features. Along all such underground utilities, a dike of clay or other suitable material shall be constructed across the trench of the transmission lines and pipelines at intervals of 20 feet or less, or as directed by a GE.*
9. *For any tests requiring boreholes, such as air track drilling, the boreholes must be grouted upon completion. Grouting should be done with a mixture of 50% bentonite and 50% portland cement.*
 10. *If air track drilling is used to determine the depth of overburden and continuity of bedrock, then these operations must be monitored full time by a GE to confirm the findings of the driller.*
 11. *Geotechnical studies shall be conducted at each proposed structure site before issuance of a building permit to determine the existence of karst features. If karst features are found, remediation shall be done to protect the healthy, safety, and welfare of occupants of the structure.*
 12. *Storage tanks shall have impervious secondary containment. Underground fuel storage tanks shall have interstitial monitoring of tanks and piping systems.*
 13. *Where applicable, the following Consumer Disclosure Statement that provides information on what review occurred and what was discovered shall be included in the Deed of Dedication:*
This property is located in an area identified as having karst features. Karst features are created by groundwater dissolving sedimentary rock such as limestone. Features include sinkholes, fissures enlarged by dissolution, and caves. Geologic tests were conducted and one or more of these features were identified on this property. Karst features are unstable and collapse may occur. Measures have been taken to ensure structural stability in this area; however, karst areas are dynamic and geologic changes may cause future structural instability. Fertilizers, herbicides, and pesticides shall not be applied within designated buffer areas.
 14. *Measures to permanently protect karst features shall be identified on the site plan. These measures may include fencing and/or signage.*

Public Hearing – Text Amendment – TA-04-02

The Clarke County Board of Supervisors will consider the amendment of the County Erosion and Sediment Control Ordinance, Section § 148-4. Definitions so as to add drilling of water wells to the list of items requiring a land disturbance permit. TA-04-02 (AT)

Chuck Johnston presented an overview of the text amendment. Mr. Johnston explained that the goal is to keep the sediment on the property.

At 11:12 a.m., Chairman Staelin opened the public comment portion of the public hearing.

Bud Nagelvoort, Berryville, member of the Lord Fairfax Soil & Water Conservation District, addressed the Board concerning this matter. He urged the board to support this amendment.

There being no others present desiring to address the Board the public comment portion of the public hearing was closed at 11:15 a.m.

Following discussion, **Supervisor Weiss** moved to approve Text Amendment TA-04-02 (AT) as written. The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

§ 148-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AGREEMENT IN LIEU OF A PLAN -- A contract between the plan-approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence *or drilling of a water well*; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

LAND DISTURBING ACTIVITY -- Any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the state, including but not limited to clearing, grading, excavating, transportation and filling of land:

Land Disturbing activities shall not include the following activities:

- J. Disturbed land area of less than 2,500 square feet in size, *excluding water wells*;

Septic Ordinance Text Amendment - TA-03-13– Continued Discussion

The Clarke County Board of Supervisors will consider the amendment of the County Septic Ordinance, Section 143-7 Definitions and Section 143-11 Appeals & Variances so as to alter the definition of a Spring and restructure the appeals board and variance procedure. TA-03-13 (AT)

Chuck Johnston and Alison Teetor appeared before the Board to review the proposed text amendment. This matter was continued from the January 2004 Board of Supervisors meeting to allow staff an opportunity to discuss the proposed amendments with Soil Consultants working in the County. As requested, a meeting was conducted on February 5, 2004 with staff and Alex Blackburn, Bob Holmes, Bob Marshall and Frank Lee. Following that discussion, it was recommended that the definition of perennial springs revert back to the original definition and be enhanced with additional criteria. The definition should also include a list of springs identified by USGS.

Vice Chairman Hobert requested that there be a reference in section 184-1 that says "See definition in 143-7".

Supervisor Dunning made the following statements:

- The listing that staff presented only covers 40% to 50% of the springs in the County.
- Springs are affected by water table. If there is a drought, you will miss many springs. As for seeps, there are some consultants that believe that every seep is a spring. It is just a matter of the level of the water table and springs could be missed if there are drought conditions.
- Springs are given a 500-ft allowance above and a 200-ft allowance below and this proposed change attacks the 500-ft above. Much of this evolves around development and there has been a lot of development in the County. The lots that have not been developed may be described as difficult pieces of land. As the price of land escalates, landowners may contract consultants that try to get these pieces to pass septic or location of springs conditions. Reducing restrictions will make it easier to develop land and to put in septic fields. It could also pollute the groundwater.
- There are arguments that some springs are of no consequence because the spring has become contaminated. This is most often caused by human contamination.
- A spring I recently looked at on the mountain had containments all around. Some said this was not a spring. However, it was the water supply for the home on the property.
- Some restrictions say that it is only a spring if it drains into a pond and this somehow adds significance to the spring, which is arguable. He noted Loudoun County restrictions on springs that drain down into a catch pond, which makes the definition stronger for being a spring.
- The definition needs to be tied down. He stated that he had definitions from other states, as well as the Clarke County Groundwater Protection Plan compiled by the Lord Fairfax Planning District Commission in February 1987. He stated that he would like to see more research of definitions in other states with similar karst conditions and incorporate them into the County's definition.
- He is sympatric to those persons in the profession of getting septic fields approved in marginal areas. However, he will not support slicing up the County regulations to put septic fields in, which he believes is bad for the County.

Alison Teetor stated that the list would be inclusive of the springs on the USGS map. She will need to compile a list and there may be those that persons may wish to bring to staff's attention. Mr. Dunning stated that staff needs to be helped to locate some of these springs maybe with the aid of a student this summer.

Vice Chairman Hobert requested clarification of the set back distances. This amendment proposes the set backs be reduced to 200 feet below a spring. The Health Department regulations require a 200-ft radius. The soil scientists have stated that the soils on the mountain are some of the best in the County and do not have karst topography as a general rule. Therefore, the 500-ft set back is not legitimate. Mr. Dunning questioned the soil scientists assertions regarding the statement that the mountain contains the best soil in the County. He opined there were some areas with good soils on the mountain; but the soils in general, especially on the mountainous slopes, are not comparable to anything in the valley. He said the soil scientists' statement is erroneous and cannot be substantiated.

Alison Teetor responded to Supervisor Weiss' query regarding regulations that no drain fields are permitted on slopes over 25%. She said that was the case.

Supervisor Byrd queried why the change was being sought. Alison Teetor stated that the argument was that mountain soils and the geology on the mountain are significantly different than those of the valley. This reduction in the standard is only proposed for the FOC district.

Mr. Dunning read from the Clarke County Groundwater Protection Plan, "while mountain populations remain relatively sparse and uncongested a properly sited and installed septic system should not pose problems with local groundwater. However, there are several features that make the mountain area more vulnerable to septic contaminations. First, much of the groundwater recharged to the well occurs from upper layers of bedrock, where fracturing is more prevailing. These waters have a more direct relationship with septic system. Secondly, greater slopes can cause more rapid movement of water in the shallow zones of soil and fractured rock resulting less dilution and further displacement from the source. Third, poor soils can lead to less biological breakdown and more rapid transfer to the water table. Fourth, small mountain communities have few alternatives other than septic systems and this may provide a problem to tightly grouped housing developments with individual septic and well systems."

At 11:33 a.m., Chairman Staelin opened the public comment portion of the public hearing.

Alex Blackburn, resident of Clarke County, worked for Virginia Tech for 25 years and presently soil scientist in Loudoun County. Mr. Blackburn stated that he appreciated the opportunity to address the Board. He provided the following written comments.

"Springs

1. "Protecting water from septic contamination is the primary reason for the County's Septic Ordinance." This is the first sentence in the documentation for amending the County's septic ordinance. This is an excellent reason for local septic ordinances that are more restrictive than the State Septic Regulations. However, this sentiment is not supported through the ordinances that do not allow alternative systems that pre-treat the effluent prior to discharge into the soil.
2. What is the technical reasoning / justification for these large stand-off distances? Research from VATech indicates setbacks far less than those required or proposed.
3. Drainfield trenches and septic tanks are required to be 500 feet from a spring if located upslope and 200 feet if located down slope of a spring, when proposed within the same sub-watershed.

4. "recommended simplifying the definition to include perennial springs that are immediately feed or are the major water source feeding a surface water body." All springs feed a surface water body somewhere down the drainage.
5. The definition of a spring as proposed is more arbitrary now than it ever was. There should also be some distinction between spring that are used as a potable water source and those that are not.
 - What is "small flow"?
 - Many springs that never flow year round have flowed continuously this year.
 - Are we (consultants) going to be required to monitor the flow in springs now in order to prove that this is or is not a spring?
6. Clarke County lies within two Physiographic Provinces that have very different geologic formations, ground and surface water characteristics and vulnerabilities to contamination. It is important for the County to recognize these two very different Physiographic Provinces and amend the ordinances accordingly.
7. Geology and knowledge of the formations strike and dip is also important in determining the effect a drainfield may have on water quality in the spring.
8. The up-slope setback 180 degrees from the spring is concerning and often will not have any effect on water quality at the spring. Flow from the septic system will tend to migrate down gradient and not move sideways to reach the spring. The one possible exception is in areas underlain by limestone where known karst features exist.

Wells and Variances

1. Reducing the set back distances to less than 100 feet from wells (potable water) is considered as appropriate when you need to remain 500 feet away from a spring (non-potable water source) ???? Setbacks from wells should always be 100 feet unless a replacement well is required for an existing lot of house or existing lot of record where the setback cannot be met.
2. The requirement to stay 100 feet away from the house with a well is tied to termite treated homes. Who is going to monitor the treatment of homes (Orkin or do-it-yourselfers) to make sure this is followed? In my opinion this is a bad decision since new home owners moving into the house and their lending institutions will not know the significance and will most likely want to treat their home for pests at some point."

Mr. Blackburn stated that the majority of the mountain is greenstone formation and does form the best soils in this County for sewage disposal. Supervisor Dunning queried him as to whether this was the basis for saying the mountain had the best land – for drainfields. Mr. Blackburn replied that he believed that land at the top of the mountain would contain some of the best agricultural soil in the County. Mr. Dunning stated there have been studies done that have identified the best soil in the County from what is referred to as the breadbasket of the County. This breadbasket area includes farms such as Long Branch, Ed Lee's farm, the Hardesty's farm and on into Jefferson County. Mr. Blackburn opined that this area had been defined during previous soil surveys based on use while the mountain was not recognized for its agricultural potential in the past. He further described the features of the soil type that make it agriculturally better. Supervisor Weiss surmised, and Mr. Blackburn agreed, it is the terrain that dictates the use and that soil on the mountain is comparable to soil in the valley.

He briefly described alternate pre-treatment systems that pre-treat the effluent before entering the ground protecting the environment, ground water, prime farmland. He stated that in the past they were not looked on favorably because they were classified as experimental. They are no longer experimental and have a proven record. They require maintenance on an annual basis from an approved source.

Mr. Dunning stated that he heard Mr. Blackburn say in his discussion of the pre-treatment systems that conventional septic systems were dangerous because they place effluent directly into the soil. Mr. Blackburn concurred.

Mr. Weiss asked if Mr. Blackburn thought 500 feet was excessive and if he believed 500 feet to be detrimental. Mr. Blackburn said that he thought it excessive but it was not detrimental to the environment. He stated that the State only requires 18 inches of distance from potable water for septic fields. Mr. Blackburn urged the County to make the ordinance technically sound so that it would be easier to defend in a court of law if challenged.

Vice Chairman Hobert asked how they measured to determine where to place the system. Ms. Teetor stated that it is measured from where the water hits the ground not the ground water. Mr. Dunning responded that the County requires a six-foot depth of perk hole on all septic fields and groundwater can come within 4 feet of the surface.

Vice Chairman Hobert asked Mr. Blackburn if he had any problems with the reasonableness of the other set backs for springs in AOC. Mr. Blackburn stated that he had no objections to the reasonableness of these standards. Mr. Blackburn told the Board that Loudoun County requires geophysical testing on all drainfields in limestone to insure there is not a solution channel directly underneath. Ms. Teetor stated that it was the consensus of the soil scientists at the meeting that 500 feet in karst was not excessive.

Mr. Blackburn said that in the FOC district if the drainfield is parallel to the spring the set back is not needed because the ground water will not move laterally. He put forth that USGS was in attendance at the meeting and agreed that the groundwater would move down away from the spring. Supervisor Dunning countered these statements with examples of actual springs in the County that do not follow this pattern. Mr. Dunning cited materials that state there are fractures on the mountain.

Bud Nagelvoort, Berryville, member of the Lord Fairfax Soil & Water Conservation District, addressed the Board concerning this matter. He said that the Soil and Water Conservation District was involved in looking for ways to reduce nitrogen and phosphorus from reaching ground water and surface water. He encouraged the Board to do what they could to strengthen their efforts to reduce nitrogen and phosphorus.

There being no others present desiring to address the Board the public comment portion of the public hearing was closed at 12:00 p.m.

Chairman Staelin stated that there was karst in parts of the FOC district and the set backs should be consistent for all parts. He expressed concern regarding the slopes in the mountain noting that you are already allowed to be 25% closer because of the way it is measured. He opined that remediation is virtually impossible in those areas due to the distance between dwellings and the slope issue. Mr. Staelin noted that throughout the State regulations are being tightened and stated that the Board should not reduce the standard without seeking more knowledge on the subject. He requested that staff research further and provide more information on this topic.

Supervisor Weiss concurred that the Board needed to get more information. He said that he would prefer to keep the current standard of 500 feet opining that it was better on the whole to have more stringent set backs.

Vice Chairman Hobert stated that he would support delaying action on this matter noting comments made by the Chair and other members of the Board that provided a reasonable argument as to why the standard should not be changed for the FOC district. He, too, requested more information on the topic.

Mr. Johnston expressed his understanding of the Board's decision to delay action on the proposed change to set backs in the FOC. Alison Teetor read the proposed change to the definition of a spring. Vice Chairman Hobert stated that he felt this definition was preferable to the earlier proposal. Supervisor Dunning opined it was still not complete and that seeps are

not understood. There was discussion regarding the ability to identify seeps during drought conditions. Supervisor Byrd stressed the importance of seeps as a water source.

Mr. Dunning expressed his desire to see the springs and seeps in the County identified and included on the map. He opined that the map currently shows only 40 to 50% of the springs in the County and should not be used. Alison Teetor stated that she did agree with the Board's desire to have more specific criteria. She suggested the Board accept the listing of springs as proposed, which can be amended as springs are identified.

Vice Chairman Hobert said that what he perceived as a dropping of the channel issue was a concern to him. He asked if they could add the sentence "a year round natural issue of water from the earth, rock formation or fracture onto the land or into a body of water via a defined channel the place of issuance being relatively restrictive in size." He suggested that the last sentence be stricken regarding seeps. Mr. Hobert stated that this sentence should take care of any springs that may have been missed and are not on the list. Supervisor Dunning requested that the matter be continued pending further review by staff.

Mr. Johnston requested the Board to review the proposed changes to 143-11 Appeals and variances and 143-11-C-2 variance procedure.

Following discussion, Vice Chairman Hobert moved to continue discussion on 184-1 Well Ordinance Definitions and 143-7 Septic Ordinance Definitions and 143-9 System Siting. He further moved for approval of 143-11 Appeals and variances and 143-11-C-2 variance procedure as written

The motion carried as follows:

Chairman Staelin - Aye
Vice Chairman Hobert - Aye
Supervisor Byrd - Aye
Supervisor Dunning - Aye
Supervisor Weiss - Aye

PROPOSED SEPTIC AND WELL ORDINANCE TEXT AMENDMENT

Sections to be added shown in ***bold italics*** Section to be deleted shown ~~struck through~~
17 December 2003

§ 143-11. Appeals & variances.
4-17-2000 A. Board of Septic and Well Appeals

- (1) Appeals of administrative interpretations of this article, and applications for variances, shall be heard by a Board of Septic and Well Appeals ("The Board").
- (2) The Board of Septic and Well Appeals shall consist of three members:
 - (a) ~~the~~ a member of the Board of Supervisors, *who serves as the Board's liaison to the Planning Commission*, with a ~~second~~ *the Vice Chairman of the Board member* designated as his/her alternate,
 - (b) the *Chairman* a ~~member~~ of the Planning Commission with the *Vice Chairman designated* a ~~second Commission member~~ as his/her alternate, and
 - (c) ~~the Lord Fairfax Health District Environmental Health Manager with the Environmental Health Supervisor as his/her alternate.~~ *A member of the public, who is a resident of the County.*

All The members ~~from the Board of Supervisors and Planning Commission~~ shall be appointed by the Board of Supervisors at their first regular meeting of each year.
- (3) The Board shall have the following powers and duties:
 - (a) To hear and decide appeals from any order, requirement, decision or determination made by the Clarke County Health Department in the administration or enforcement of this article.
 - (b) To hear and decide applications for variances in accordance with the provisions of this section.

- B. Appeals.
- (7) *The concurring vote of two members shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer, or to decide in favor of the applicant on any matter upon which the Board is required to pass under this Ordinance, or to effect any variance from the Ordinance.*

~ 143-11-C-2 Variance procedure:

- (k) Each variance shall be attached to the permit to which it is granted. Each variance is revoked when the permit to which it is attached is revoked.
- (l) ~~Variances shall not be required for emergency repairs of existing systems that do not alter the layout or design of the existing system.~~ *shall be heard by the County Natural Resources Planner. The Natural Resources Planner shall consult with the Board of Supervisors member of the Board of Septic Appeals before acting on such a variance request.*
- (m) Variances shall be approved to alleviate a clearly demonstrable hardship approaching confiscation involving existing improvements, as described in Section (C)(1), above, as distinguished from a special privilege or self-imposed (elective) convenience or option sought by the applicant.
- (n) *Variances shall be heard by the County Natural Resources Planner for systems that substantially comply with the intent of this ordinance. Substantial compliance is defined as a variance of not greater than 10% from the stated regulations. The Natural Resources Planner shall consult with the Board of Supervisors member of the Board of Septic Appeals before acting on such a variance request.*

Discussion Of Committee Action

Personnel

Appointment to Authorities, Boards and Commissions

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Board of Social Service <i>Mr. Davis is a new appointee serving the remainder of the unexpired term of Myron Way.</i>	Richard Davis	7/15/04
Board of Zoning Appeals <i>Ms. Volk was selected by the Board for recommendation to serve on the Board of Zoning Appeals subject to approval by the Circuit Court of Clarke County.</i>	Laurie Volk	2/15/09
Board of Zoning Appeals <i>Mr. Borel was selected by the Board for consideration to serve a second term on the Board of Zoning Appeals subject to approval by the Circuit Court of Clarke County.</i>	Alain F. Borel	2/15/09
Industrial Development Authority <i>Mr. Armbrust is a new appointee serving the remainder of the unexpired term of Henry L. Garrett, III.</i>	Wayne Armbrust	10/30/04
Board of Well & Septic Appeals <i>Mr. Blatz is a new appointee serving as the citizen member on the Board.</i>	Joseph Blatz	10/30/04

Supervisor Byrd moved to accept in whole all the appointments as presented.
The motion carried as follows:

- Chairman Staelin
- Aye
- Vice Chairman Hobert
- Aye
- Supervisor Byrd
- Aye
- Supervisor Dunning
- Aye
- Supervisor Weiss
- Aye

Board of Supervisors Work Session

Proposed work plan for Double Tollgate

Attached is information prepared earlier by Chester Engineers. Questions regarding what planning activities and products were needed for the area were raised at the last Board Meeting.

The Board directed that VDOT be included in the list of agencies with which the Double Tollgate plan is to be presented for review, any additional cost for that inclusion be determined, and that a separate cost for a PER on a regional storm water plan be requested.

David Ash stated that he had contacted VDOT and there was no additional cost to include them in the list of agencies. The PER plan will be prepared as soon as possible.

Supervisor Byrd moved the Clarke County Industrial Development Authority be asked to initiate the study and to cover the cost of the project.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Board of Supervisor's Meeting Calendar

The Board Calendar for the next three months is attached. The Schools have asked that the presentation of the revised facility plan be scheduled on February 26th but a conflict exists. Other potential dates suggested include February 25th or March 1st, before the school budget hearing.

The Board reviewed the calendar for the next three months and agreed to add a meeting on February 25th at 7:00 pm for presentation of the school budget.

Chairman Staelin informed the Board that Bent Ferrell, School Board member, had contacted him. Mr. Ferrell requested that the location of the meeting scheduled for February 25 be changed to accommodate more persons. The School Board will be presenting their school construction plan to the Board. Mr. Staelin stated that he informed Mr. Ferrell that it was not likely that the Board would act on the plan at the February 25 meeting, which will be relocated to the General District Court Room.

School Facilities Update

Members of the Board will be updated on possible changes to the school facilities plan as discussed at school meetings and reported by the media. Board members have been provided copies of information distributed at the School meeting on February 2, 2004.

The Board briefly discussed the information available to date on the school facilities plan.

The School Board will present their construction plan to the Board of Supervisors during the February 25, 2004 meeting. Supervisor Weiss stated that this meeting should be viewed as a preliminary request. Chairman Staelin stated that March 1, 2004 was a target date for presentation. He advised the Board that the plan did not have to be finalized until July 2004 to request a bond issue.

Finance

Supplemental Appropriations

Treasurer's Office

The Treasurer requests a supplemental appropriation of \$10,000 to cover excess advertising and other costs incurred in collection of delinquent taxes. Source of revenue is identified as the excess revenues returned to the County in July of this fiscal year. The Finance Committee has recommended approval of the requested supplement.

Schools

The auditors have made changes resulting in the accrual of an additional month of sales tax for FY03 resulting in an increase to the year-end fund balance of \$211,083. Of that, \$130,727 is due the School Operating Fund. As the previous year-end fund balance, already re-appropriated, was also adjusted, the current request is for the Board to provide a supplemental appropriation in the amount of \$126,351 to the School-operating fund. The Finance Committee recommends approval of the requested supplement.

Supervisor Byrd moved to approve the supplemental appropriations as follows:

Be it resolved that the FY 04 Treasurer's Office Budget be amended to increase expenditures by \$10,000, and be it further resolved that additional revenue from land sales be recognized in the amount of \$10,000.

Be it resolved that the FY 04 School Operating Fund be amended to increase expenditures by \$126,351.

The motion was approved by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Swimming Pool Rehabilitation

Continued problems at the park pool regarding the liner motivated parks and maintenance to seek bids on repair/replacement options. Bids were sought and the low bid was \$60,070. Parks has approximately \$52,000 in available funds and Maintenance can make approximately \$5,000 available. There is a potential for additional cost. However, the damage to tiles and extent of un-bonded plaster cannot be determined until the liner is removed. The contractor's worst-case scenario is no more than \$10,000 additional.

This work must be authorized now in order to insure that there is minimum impact on the swimming season. The proposal is to open on June 5th, provided low temperatures in April and May do not delay application of the finish. Actual need for supplemental appropriation can be delayed until the cost is known, but there will undoubtedly be some supplement required.

The Finance Committee recommended the work be authorized and that any required supplement be determined and approved subject to demolition of the liner. (Estimate of need ranges from \$3,000-\$10,000)

Vice Chairman Hobert moved to authorize and that any required supplement be determined and approved subsequent to demolition of the liner.

The motion was approved by the following vote:

- | | | |
|----------------------|---|-----|
| Chairman Staelin | - | Aye |
| Vice Chairman Hobert | - | Aye |
| Supervisor Byrd | - | Aye |
| Supervisor Dunning | - | Aye |
| Supervisor Weiss | - | Aye |

Lions Club request to designate property owned and operated by the Lions Club as tax exempt

The Lions Club is requesting that a 120-acre parcel of property located off Howellsville Road be exempted from taxes as it is owned and operated by a 501(c)(3) organization. A presentation to the Board has been offered. Information on the process required for local designation of tax exempt property and a list of tax exempt property currently existing in Clarke County was provided to the Board and is contained in the February 2004 Board of Supervisors packet. The Finance Committee recommended the Board decline the request and direct staff (Administrator and Commissioner of the Revenue) to review the relevant legislation and provide the Board with additional information.

By consensus, the Board of Supervisors deferred this matter for staff review.

Review Staff Revenue Estimates

Staff/Constitutional Officers met to review anticipated revenue on February 4th. A list detailing differences from the Joint Revenue Committee was made available on Monday, February 16, 2004. The Finance Committee deferred this matter for consideration at the Tuesday, February 10th budget meeting.

By consensus, the Board of Supervisors deferred this matter for review during the upcoming work sessions.

Proposed fee increases for Planning, Building and Animal Control

The Finance Committee recommended approval of the fee schedule for planning and zoning with the removal of the charge for appeals to the Board of Supervisors. The fee schedule for animal control is recommended as shown on the revised schedule attached hereto. The Finance Committee recommended that a number of adjustments in the proposed Building Department fees be made and that the schedule be resubmitted to the committee for review.

Supervisor Byrd moved to approve the revised fee schedules for Planning and Zoning with the changes advised by the Finance Committee and Animal Control as presented. The motion carried as follows:

- | | | |
|----------------------|---|--------|
| Chairman Staelin | - | Aye |
| Vice Chairman Hobert | - | Aye |
| Supervisor Byrd | - | Aye |
| Supervisor Dunning | - | Absent |
| Supervisor Weiss | - | Aye |

Review of Audit Report

It was agreed at the January Board of Supervisors meeting that the Finance Committee would further review the Audit Report and bring to the Board members attention notable details or information. Tom Judge, Director Joint Administrative

Services, provided explanations to the Finance Committee during the meeting held on February 9, 2004.

Bills And Claims

- David S. Weiss, Supervisor

Supervisor Weiss reviewed the Bills and Claims for the general government for the February 2004 Board of Supervisors meeting. Mr. Weiss noted that some line items are at 100%. Tom Judge stated that line items may be for funds that are committed.

Supervisor Weiss moved to approve Bills and Claims for the general government as presented.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Project Update

- David L. Ash, County Administrator

David Ash appeared before the Board to review the Project Updates, which were distributed as part of the Board of Supervisors agenda packet. There were no questions or issues raised by the Board regarding the status to date.

Park Soil Survey

Subsequent to the discovery of measurable levels of arsenic at the County Park, DEQ has agreed to include the Park in the Brownfield's Assessment Program and has accompanied the contractor who will complete the assessment on a site reconnaissance. Information regarding the site, previous tests, and other related information has been provided to the contractor. The contractor will develop a proposed study program based on that information. Sampling is anticipated later this spring. Results of any investigation are expected to take 9-12 months.

Mr. Ash put forth for better understanding further discussion should be set for a Board of Supervisors Work Session.

Report – Economic Development

- John W. Sours, Jr., Director Economic Development

Due to time constraints, John Sours did not appear before the Board of Supervisors; however, he did provide the monthly report, which was distributed as part of the Board of Supervisors agenda packet.

Miscellaneous Items

Legislative Update

Chairman Staelin stated that the House of Delegates has come up with their own tax reform plan that proposes sales taxes in areas that have not traditionally been subject to sales tax including, telephones, utilities, and certain other services. The top priority of the House of Delegates is to fully fund the SOQ's, which is also a high priority for the Governor and the Senate.

Discussion on Establishment of Annual Goals for the Board of Supervisors

Supervisor Dunning put forth his idea that the Board set goals and priorities for the coming year of items they would like to accomplish, such as the Double Tollgate, resolving the school funding issue, etc. Further discussion on this matter will be set for the next Board of Supervisors Work Session.

Supervisor Weiss suggested that a briefing meeting, such as the Planning Commission conducts, would be beneficial to the Board particularly in Planning and Zoning matters. Chairman Staelin concurred stating that the more complex issues could be reviewed during Work Sessions.

County Land Sales

Linda Coumes appeared before the Board to discuss County land sales. She explained that property was sold to the highest bidder. The only restriction is that the price must be high enough to cover the County's costs, which is determined by the Treasurer. Supervisor Dunning expressed concern regarding the legality County employees or persons contracted by the County bidding on these properties. Vice Chairman Hobert also expressed concern that some could view this as a conflict of interest and suggested that Mrs. Coumes might add a clause about this topic into their contracts.

Closed Session

Supervisor Dunning moved to convene into closed session pursuant to Section §2.2.3711-A1 and §2.2.3711-A3 of the Code of Virginia, as amended, to discuss personnel and real estate issues.

The motion was approved as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

The members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, **Supervisor Dunning moved to reconvene in open session. The motion carried as follows:**

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Supervisor Dunning moved to execute the following Certification of Closed Session:

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Board of Supervisors of the County of Clarke, Virginia, has convened a closed meeting on the date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3700 of the Code of Virginia requires a certification by the Board of Supervisors of the County of Clarke, Virginia that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of the County of Clarke, Virginia, hereby certifies that, to the best of each members knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors of the County of Clarke, Virginia.

The motion was approved by the following roll-call vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Notify Parks and Recreation regarding the Board's decision on the Quilt Show.	David Ash
2.	Check with Ruritan Club regarding fees for use.	Parks & Recreation Staff
3.	Add Board of Supervisors Work Session review of County roads for consideration at Scenic By-ways	David Ash
4.	Provide letter of formal intent to VDOT in the matter of Revenue Sharing for the Town of Boyce.	David Ash
5.	Forward approved resolution to Regional Airport Authority.	David Ash
6.	Provide notification of approval subject to provision of documentation to Long Branch.	David Ash
7.	Add continued discussion of Special Use Permit SUP-03-06 to March 16, 2004 Agenda.	David Ash
8.	Add continued discussion of Septic Ordinance Text Amendment - TA-03-13 to March 16, 2004 Agenda.	David Ash
9.	Change County calendar to reflect meeting location change for February 25, 2004.	David Ash
10.	Contact IDA regarding management of the Double Tollgate project.	J. Michael Hobert / A.R. Dunning, Jr.
11.	Notify Lions Club of denial of request.	David Ash
12.	Review the relevant legislation and provide the Board with additional information on tax-exempt properties.	David Ash
13.	Add Board of Supervisors Work Session setting goals and priorities for the coming year.	David Ash
14.	Provide letters of appointment.	David Ash

Next Meeting:

The next regularly scheduled meeting of the Board of Supervisors is set for March 16, 2004 at 9:00 a.m. in the Board of Supervisors Meeting Room, Second Floor of the Circuit Courthouse, 102 N. Church Street, Berryville, Virginia.

There being no further business to be brought before the Board, the Chairman adjourned the meeting at 3:52 pm.

ATTEST: February 17, 2004

John Staelin, Chairman

David L. Ash, County Administrator